



2018 ANNUAL REVIEW
INTERNATIONAL INSTITUTE FOR
CONFLICT PREVENTION & RESOLUTION

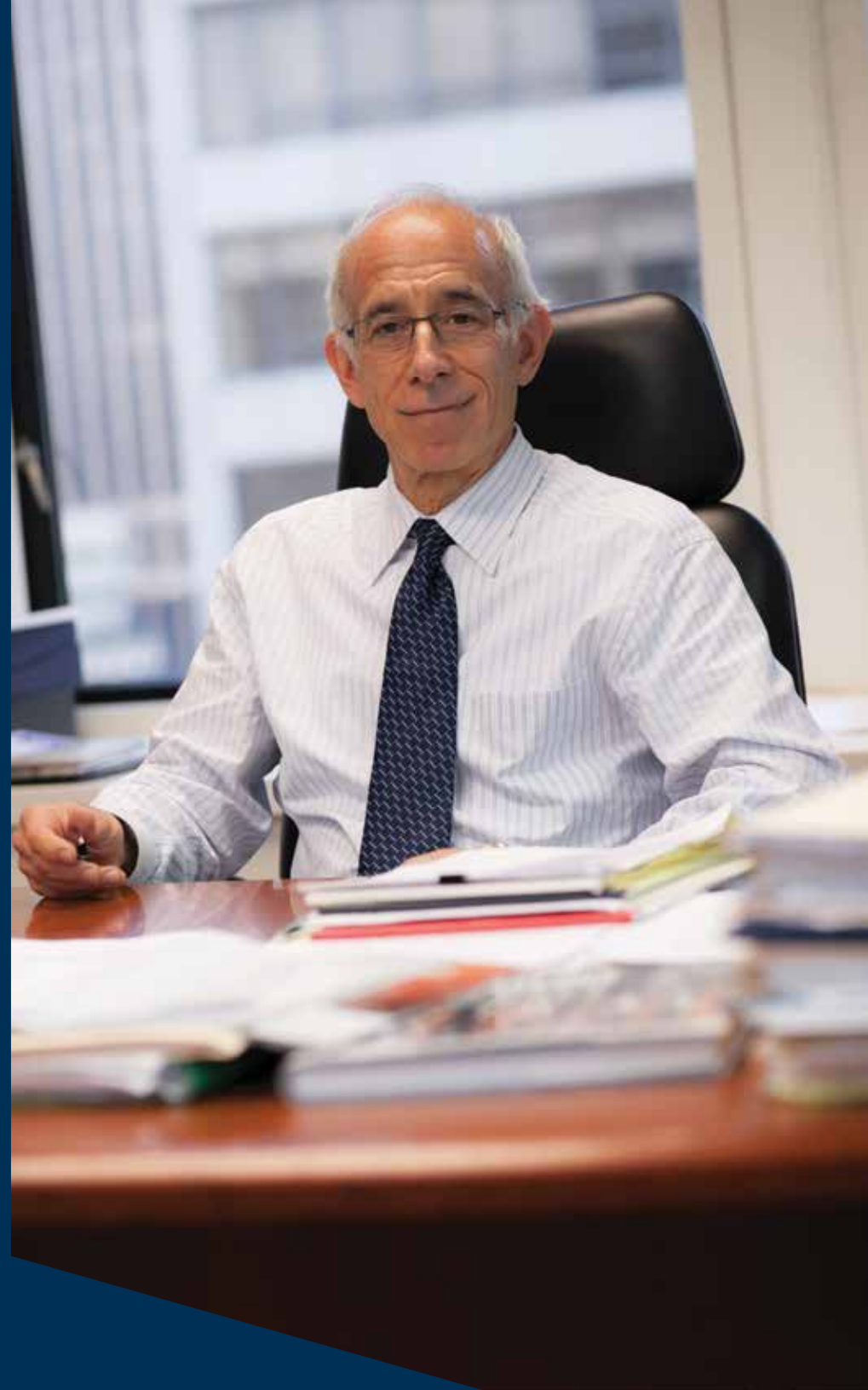
PERSPECTIVES ON ADR

DISPUTE RESOLUTION IN AN
INCREASINGLY FRACTURED WORLD

CPR AT
40
YEARS

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A Letter from CPR's President and CEO

There is nothing like a kaleidoscope. They are beautiful instruments, with a mechanism quite simple but a message that is anything but simple. Inside the cylinder, several reflecting surfaces bow toward each other at an angle. Through the resulting reflections, the objects at one end of the tube – likely pieces of glass or colored paper – are transformed at the other end into symmetrical patterns. Rotating the instrument makes the objects – and the patterns – move, resulting in a seemingly infinite set of new perspectives. And I am reminded of a realization that I made some time ago, professionally.

When I first came to MasterCard, where I was General Counsel for 13 years before coming to CPR, I arrived with somewhat of a pure litigator's mindset. But I soon realized that litigation provided only a very limited palette – one of black and white, winner and loser. Very soon I began to appreciate – and paint with – the much broader range of colors and creative options that alternative dispute resolution (particularly mediation) offered me, and in turn allowed me to offer my client.

Now, more than ever, the instruments of ADR offer the business and legal community the means to take a fractured set of facts related to a dispute – figurative bits of sharp and broken glass – and to arrive at an elegant and still symmetrical outcome that better suits the parties' actual needs and desires, not always related to money. A diverse range of perspectives in the dispute resolution context has also been

proven to lead to better decision-making, which is one of the reasons we are so tireless in our efforts to drive diversity in dispute resolution.

CPR celebrated its 40th anniversary this year. From its inception, ideas about and approaches to dispute resolution have evolved considerably. Given our current, fractured environment, we wanted to hear from various stakeholders and CPR constituents about what they envision will be the most significant developments in dispute resolution over the next 5-10 years, as well as the changes they would like to see and how stakeholders (including CPR) can contribute positively to that process. We have shared a sampling of their responses in this document.

Well beyond the pages of this annual review, I invite you to throw off the yoke of previous assumptions and open yourselves up to the possibility of a new perspective or two. Whether you are striving to prevent or resolve a business dispute, or considering the types of broader world conflicts and peacekeeping issues that I have had a chance to reflect upon (and speak to) this year, as described herein, I can promise you that your end result will be all the richer for it.



Noah Hanft
President & CEO

*Now, more than ever,
the instruments
of ADR offer the
business and legal
community the means
to take a fractured set
of facts related to a
dispute and to arrive
at an elegant and still
symmetrical solution.*



A letter from the CPR Board Chair and Vice Chair

2017 was a year of success and strategy – a simultaneous focus by CPR on the present and the future. This is not unlike the focus that GCs and their counsel must continuously employ when anticipating and resolving disputes in a way that also supports the broader business.

This year saw the most successful fundraising effort in CPR's history, with the organization raising more than \$1.5 million from generous donors through its Corporate Leadership Award honoring AT&T and General Counsel David McAtee II – money that will play a critical role in funding CPR's efforts and fulfilling its mission. On the Dispute Resolution Services (DRS) front, CPR added a timely new Cyber Panel. And the rest of CPR's Panel of Distinguished Neutrals also continued to grow, serving as a shining example of both professional excellence and the critical imperative of driving diversity in ADR.

This year also saw CPR's creation and public dissemination of many powerful new resources, such as the CPR Dispute Resolution Clause Selection Tool and the "CPR Complete Clause" Tool, which stress the importance of dispute prevention – as well as the involvement of an organization's transactional teams, and not just its litigators.

In terms of one of CPR's strongest foundational pillars, thought leadership, CPR undertook a marked 2017 revitalization of its committee structure, bringing an even higher degree of energy and professionalism, and resulting in both greater engagement and an increase in initiatives and programs. The committee growing the next generation of leaders in ADR, Y-ADR also continued to gain momentum, hosting several events and filling new leadership roles from around the globe.

As a membership organization, CPR continued to inspire and facilitate interaction and valuable networking opportunities between in-house and outside counsel, while also launching new surveys to assess what members value most among our offerings and what else they might like to see from us in the future. CPR's strong international focus has always been key to the success of its mission, and this year was another stellar year in that regard, with much activity and engagement taking place and now underway in Europe, Canada and Brazil.

On a personal note, we were thrilled to take up our new positions on CPR's Board this year, as Chair and Vice Chair respectively, joined by six additional newcomers: Katie Barrett, Anheuser-Busch; George A. Bermann, Columbia University

School of Law in New York; Janet Langford Carrig, ConocoPhillips; Peter Drucker, AkzoNobel N.V.; Craig B. Glidden, General Motors Co.; and Richard S. Krumholz, Norton Rose Fulbright.

On behalf of the entire CPR Board, we are honored to lead this unique and ambitious organization as it continues to offer important perspectives on the question of how best to prevent and resolve disputes.



Carlos M. Hernandez

Carlos M. Hernandez
Chair,
CPR Board of Directors



Thomas J. Sabatino

Thomas J. Sabatino
Vice Chair,
CPR Board of
Directors

MEMBERSHIP

CPR membership offers you the opportunity to prevent and resolve your business conflicts more effectively, by taking full advantage of our cutting-edge dispute prevention and resolution resources and services.

ADR EXPERTISE, ADMINISTRATION & 600 NEUTRALS

CPR Member benefits include:

- Unlimited online access to CPR's neutrals and a 15% reduction on select panelists' rates
- An ADR research hotline for guidance with practical, ethical and legal issues
- Free customized workshops, training and models for drafting ADR clauses

Innovation in ADR

CPR received the GAR Innovation Award for its unique Screened Selection Process, which enables parties to choose arbitrators without them knowing which party selected them.

CUTTING-EDGE, PRACTICAL RULES, TOOLS & RESOURCES

Members are at the forefront of the global ADR landscape and promote business-smart dispute resolution through participation on:

- CPR's 11 Subject Matter & Industry Committees
- CPR's International Advisory Boards for Brazil, Europe and Canada

As an example of the kind of thought leadership CPR membership and Committee participation drives, *The Corporate Counsel Manual for Cross-Border Dispute Resolution* is an indispensable new resource providing guidance on drafting and planning for the possibility of cross-border disputes. All member organizations are entitled to a free copy, and discounts thereafter.

A GLOBAL NETWORK OF LEADERS

For 40 years, CPR has been the only organization where stakeholders from all perspectives of the ADR community – clients, advocates, practitioners and researchers – can come together and collaborate, spearheading innovation in dispute prevention and resolution that is specially tailored to business parties' needs.

CPR Members include Fortune 1000 companies, AM100 law firms, highly experienced neutrals and ADR-focused academics. Through innovation and teamwork, CPR members create lasting relationships, while improving the ADR landscape. A representative sampling of our corporate members appears below:

For more information about Membership or to join CPR, contact Niki Borofsky at nborofsky@cpradr.org



CPR AT
40
YEARS

Uniquely bringing together in-house and outside counsel since 1977

CPR was the first organization to bring together corporate counsel and their law firms to find ways to lower the cost of litigation. Four decades later, CPR continues to facilitate meaningful inside-outside

counsel collaboration by demonstrating the powerful incentives that dispute resolution offers to both sides of this partnership.

The power of the Pledge

In the 1980s, CPR was the first to develop a Policy Statement on Alternatives to Litigation (“CPR Pledge”) to encourage signatories to come to the table and thoughtfully discuss alternate approaches to resolving their disputes, instead of automatically running to court. To date, more than 4,000 operating companies and 1,500 law firms have signed. These CPR policy statements are bilateral and reflect the commitment of signing parties to considering ADR methods.

CPR then continued its efforts to change the way the world resolves conflict by creating the updated “21st Century Corporate ADR Pledge” in 2013. Adopting the original pledge’s principles, the 21st Century Corporate ADR Pledge enhanced the focus on corporate commitment to proactive ADR programs supported by CPR’s full range of best practices and tools. Most importantly, the signatories have pledged to seek ways to avoid litigation unilaterally – regardless of whether the opposing party has done so as well. Early pledge signatories include members of CPR’s Board of Directors and the CPR Council, as well as other leading corporations.

Decades of cutting-edge innovation

Since its founding, CPR and its members have worked collaboratively to develop the most innovative and cutting-edge rules, protocols and best practices – and to launch a number of projects, events and initiatives – to directly address business dispute resolution needs. CPR’s members and generous supporters make this possible.



1977

CPR is Born as Public Resources, Inc. (James F. Henry, President & CEO)

1979

CPR Becomes Center for Public Resources, Inc.

1982

CPR Creates First Corporate ADR Pledge and Forms Panel of Distinguished Neutrals

1983

CPR Launches Alternatives and ADR Awards Program



1984

CPR Chosen to Administer Wellington Insurance Claims

1985

The Manager’s Guide to Resolving Legal Disputes, First ADR Book for Business Executives



1987

CPR Mediation Procedure

1989

Model Mini-Trial Procedure and Non Administered (Domestic) Arbitration Rules

1992

Non-Administered International Arbitration Rules

1994

CPR Becomes CPR Institute for Dispute Resolution, Inc.

1994

Procedure for Resolution of Franchise Disputes

1995

Predecessor to European Advisory Board (EAB), European Advisory Council (EAC), is Formed



1995

Model ADR Practices and Procedures (MAPPs)

1996

ADR and Settlement in the Federal District Courts (Book)



1996

CPR and EAC Publish *Model Dispute Resolution Clauses for Business Contracts in Europe*

1999

Mediator’s Deskbook and Arbitration Appeal Procedure





2001

Thomas Stipanowich is Named President & CEO of CPR

2002

Model Rules for the Lawyer as Third-Party Neutral and Provider Principles



2004

CPR Becomes the International Institute for Conflict Prevention & Resolution, Inc.



2004

CPR Launches its "Master Guide" Series of Books

2004

CPR Organizes First European Business Congress



2004

CPR Employment Mediation Procedure and Managing Employment Disputes (Book)

2005

Rules for Non-Administered Arbitration of Patent and Trade Secret Disputes, CPR Mediation Principles for Insurer-Insured Disputes and International Reinsurance Industry Protocol



2006

Kathleen A. Bryan is Named President & CEO of CPR

2006

Rules for Expedited Arbitration of Construction Disputes

2006

CPR Announces National Task Force on Diversity in ADR

2006

CPR Appoints Ken Feinberg and Deborah Greenspan to Head Up Mass Claims Commission

2007

Comprehensive Overhaul of CPR Non-Administered Rules

2009

Protocol on Disclosure of Documents & Presentation of Witnesses in Commercial Arbitration

2009

Young Lawyers in Dispute Resolution Group (Y-ADR) is Formed

2010

Protocol on Determination of Damages



2011

Guidelines for Early Disposition of Issues in Arbitration

2012

Guidelines for Arbitrators Conducting Complex Arbitrations

2013

Administered Arbitration Rules and 21st Century Corporate ADR Pledge

2013

CPR Hosts First Brazil Mediation Congress

2014

Rules for Administered Arbitration of International Disputes

2014

Noah J. Hanft Named President & CEO of CPR

2014

Cutting Edge Advances in Resolving Workplace Disputes

2015

CPR Launches New Flat Fee Mediation Program

2015

CPR Unveils New European Mediation & ADR Guide

2015

Launch of Brazilian Advisory Board



2016

CPR Captures GAR Innovation Award for Screened Selection Process

2016

CPR Hosts Inaugural "Inspiring Innovation in ADR" Award Ceremony

2016

CPR and CEDR Join Forces to Promote CPR's International Rules in Europe



2016

CPR Launches Annual Y-ADR Writing Competition & Award

2016

Inaugural Canada Regional Meeting

2017

Corporate Counsel Manual for Cross-Border Dispute Resolution (Book)

2017

New International Mediation Procedure

2017

CPR Launches Inaugural CPR International Mediation Competition

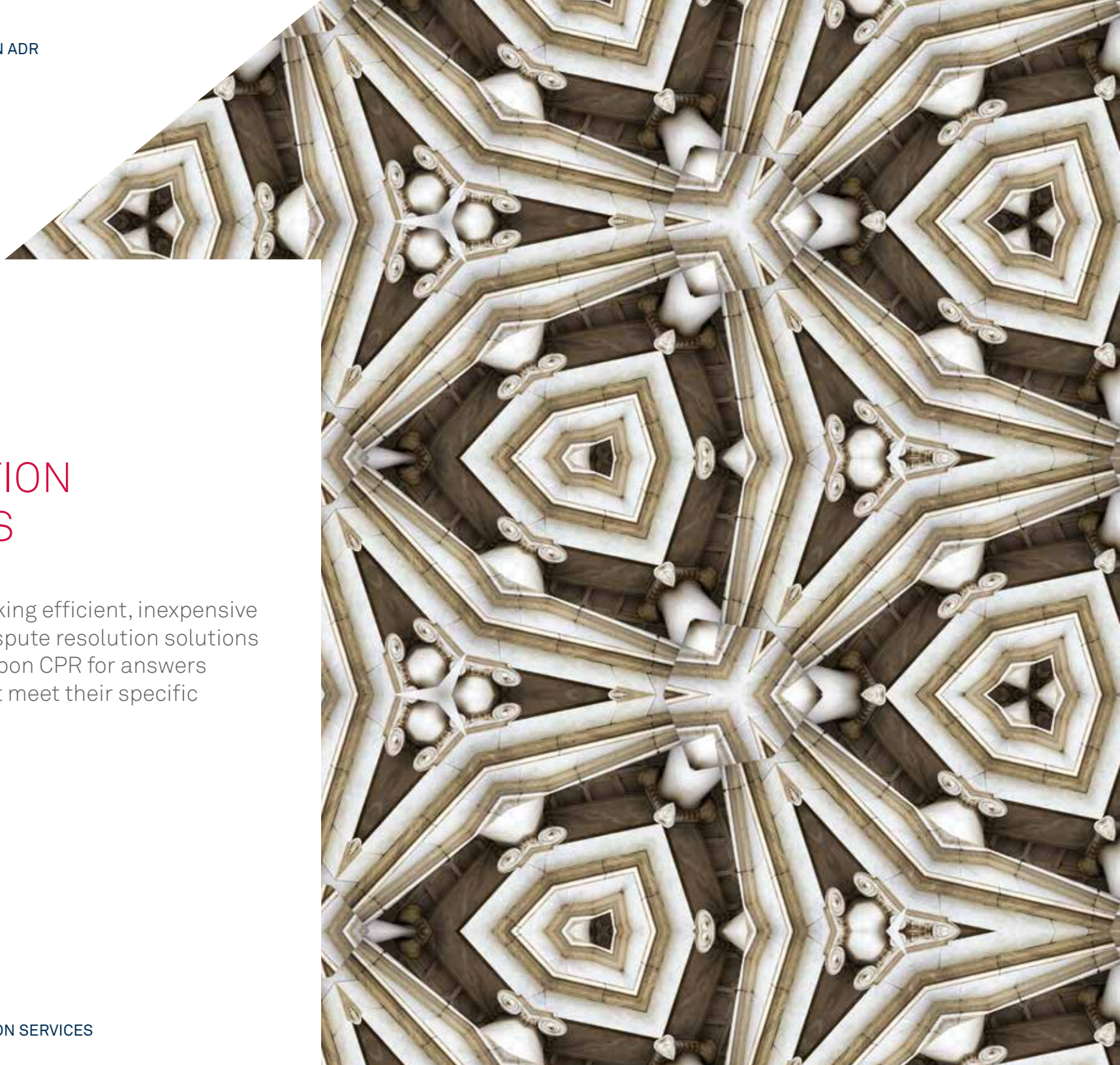
2017

Launch of Canada Advisory Board



DISPUTE RESOLUTION SERVICES

Corporations seeking efficient, inexpensive and innovative dispute resolution solutions continue to rely upon CPR for answers and offerings that meet their specific business needs.

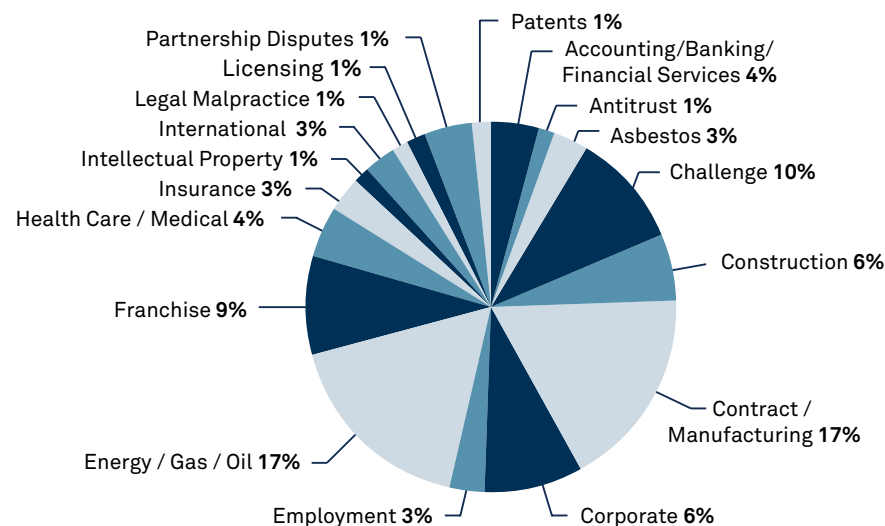


In 2017 DRS intensified its focus on driving greater usage of our rules, resources, panels and services – which extend well beyond arbitration and mediation to include special arbitrators for interim measures, fundholding, deal facilitation, early neutral evaluation, mini trials and dispute resolution boards, as well as a **Flat Fee Mediation Program** and a **15% Member Discount from Participating Neutrals**.

CPR enhanced its Panels of Distinguished Neutrals in 2017 with the launch of a new Cyber Panel. One of more than 30 specialty panels, the Cyber Panel comprises neutrals who are expert in data breaches and other cybersecurity issues, as well as those experienced in handling related insurance coverage disputes. Companies and their counsel can now include CPR into their proactive strategies to prevent and/or resolve cyber-related disputes in a manner that best protects operations, customers and reputation.

CPR DISPUTE RESOLUTION SERVICES (DRS)

Cases by Subject Matter 07/01/16 to 11/30/2017



According to **Joseph M Hanna**, a Partner at Goldberg Segalla and a participant in last year's CPR mentoring program to train and develop diverse neutrals in conjunction with LCLD and FINRA, "Even if you're not engaged in arbitration or mediation, you will use the techniques and the 'soft processes' that you pick up



during this training and from your mentors every day – whether you are practicing law, litigating cases, working with colleagues, mentoring young associates or even dealing with your family."

Joseph M. Hanna
Partner, Goldberg Segalla

DRS GROWTH – FROM 9/1/2016 to 11/30/17

- CPR has added **50** new members to its Panel of Distinguished Neutrals since September 2016 – **4%** of these are former judges, **20%** are women and **20%** are diverse.
- Our neutrals hail from **27** countries, up from 24 last year.
- In FY17 women and minorities comprised **23%** of selections.

CPR also continued its commitment to driving actual results in terms of diversity in ADR, with a wide range of public speaking, writing and committee work. Our mentoring program to train and develop diverse neutrals in conjunction with LCLD and FINRA is perhaps the highlight of these efforts, graduating six talented fellows last year and welcoming five new current participants, all of whom will make great contributions to the field.

CPR AND CEDR: Partnering for You



Through the 2016 collaboration agreement entered into by CPR and the Centre for Effective Dispute Resolution (CEDR), users of CPR's Rules in Europe have

a "local" office through which they can file cases on CEDR's website, as well as speak with trained members of CEDR's staff in London about any questions concerning the Rules or filing. Cases filed through CEDR are administered out of CPR's New York office by CPR's Case Management Team.

This partnership continues to underscore CPR's long-standing presence in Europe, and enhances the dispute resolution services that CPR offers in one of the most important business hubs in the world.

For more information about Rules or CPR's Dispute Resolution Services, call 212-949-6490 or email CPRNeutrals@cpradr.org

Our newest set of Rules for Administered Arbitration are designed to be efficient and cost-effective, offering:

EASY COMMENCEMENT PROCESS

No cumbersome paper filing requirements

CONFIDENTIALITY

This applies to all participants, including CPR, the arbitrators, and the parties

MULTIPLE ARBITRATOR SELECTION MECHANISMS AVAILABLE

Including Global Arbitration Review award winning Screened Selection Process

RAPID APPOINTMENT OF THE TRIBUNAL

It typically takes 2-4 weeks, but can be expedited

INDEPENDENCE AND NEUTRALITY OF ARBITRATORS

There is no exception

TIME FRAME ACCOUNTABILITY

Awards must be issued within certain timeframes after which extensions must be approved by CPR

LEAN ADMINISTRATION

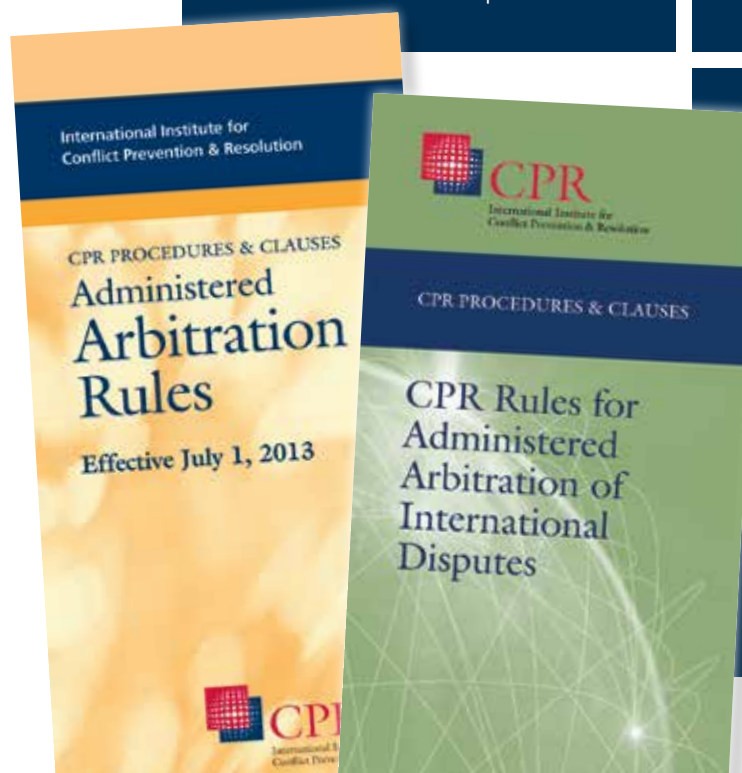
Only as much as you need, and nothing more

APPLICATION OF LAW

Arbitrators must apply applicable law and issue reasoned decisions

SETTLEMENT OPPORTUNITIES

Opportunity to explore settlement at any time during the arbitration





DRIVING A GLOBAL DISPUTE PREVENTION & RESOLUTION CULTURE

In 2017, CPR continued its advocacy and educational initiatives designed to increase understanding and implementation of thoughtful dispute resolution processes and programs around the world.

CPR RELEASES NEW INTERNATIONAL MEDIATION PROCEDURE

This year, CPR released a new International Mediation Procedure, which may be adopted by agreement of the parties, with or without modification, before or after a dispute has arisen. The procedure streamlines earlier ones created for Europe and Brazil. (The CPR Mediation Procedure, which is specific to the United States, remains effective.) It was drafted by a Working Group of CPR's prestigious European Advisory Board (EAB), led by Alexander Oddy of Herbert Smith Freehills and Isabelle Robinet Muguet of Orange with input from CPR's Mediation Committee, led by Erin Gleason Alvarez, formerly with AIG (now of Gleason Alvarez ADR) and Rick Richardson of GlaxoSmithKline.

CPR LAUNCHES INTERNATIONAL MEDIATION COMPETITION

The inaugural event was held in São Paulo in May. Hosted by the Chamber of Conciliation, Mediation and Arbitration CIESP/FIESP, the contest featured 12 talented teams, was conducted in English and provided a great opportunity to promote mediation to a younger generation of lawyers.



EUROPE

CPR appointed Maurice Kuitens of Fluor Corp. as the new Chair and Isabelle Robinet Muguet of Orange as the new Vice Chair of the European Advisory Board (EAB) – an invitation-only board composed of CPR member representatives in Europe that provides strategic direction to CPR’s activities and initiatives in the region. In addition, Vanessa Alarcón Duvanel of White & Case was appointed to serve as EAB Secretary. This year, the EAB focused on several important initiatives, including the continued enhancement of the CPR Panel of Neutrals in Europe; the update of the *CPR European Mediation & ADR Guide* and its translation into several major European languages; as well as (via two working groups) public policy issues in Europe and developing additional European-focused CPR programming.

Among other 2017 European events, CPR organized its first **European Congress on Business Dispute Management** in many years at Mastercard in London; a conference in Warsaw in collaboration with the Polish National Bar of Attorneys at Law, the Warsaw Regional Chamber of Attorneys at Law and CEDR, titled “Should Mediation Practitioners Be Regulated?”; and the 3rd Annual International Arbitration Conference “The In-house Counsel’s Perspective” in collaboration with ACC Europe, the Corporate Counsel International Arbitration Group (CCIAG) and the Swiss Arbitration Association (ASA).



01



02



03



04



05



06



07

01. Antonio Suarez-Martinez, GlaxoSmithKline; Peter A. Drucker, AkzoNobel Legal Group; Alexander J. Oddy, Herbert Smith Freehills; Joanne Cross, BP; Scott S. Partridge, Monsanto Co.

02. Ruth M.D. Byrne, King & Spalding; Maurice J.H. Kuitens, Fluor Corp.; Mark S. McNeill, Shearman & Sterling; Jonathan Leach, Eversheds Sutherland; Noah J. Hanft, Int'l Inst. for Conflict Prevention & Resolution

03. Room

04. Keynote speaker John Fellas, Partner, Hughes Hubbard & Reed

05. Birgit Sambeth Glasner, Altenburger Ltd.; Vanessa Alarcón Duvanel, White & Case; Conna A. Weiner, Conna Weiner ADR; Elena Jelmini Cellerini, Swiss Re Corporate Solutions Services Ltd

06. James Cowan, Shell International Limited; Helen Dodds, Standard Chartered Bank; Birgit Sambeth Glasner, Altenburger Ltd.; Thibaut Grégoire, MasterCard Worldwide; Suber Akther, Siemens plc

07. Louis Degos, K & L Gates; Dr. Karl J. Mackie, Centre for Effective Dispute Resolution; Clare Connellan, White & Case; Isabelle Robinet Muguet, VP, Orange S.A.; Ralf Lindbäck, Wärtsilä Corp.

CANADA

Following the success of CPR's first Canada Regional Meeting in Toronto, held last year at McMillan, CPR hosted its **Second Canada Regional**

Meeting at Toronto Arbitration Place in September 2017. Featuring the Honourable Ian Binnie, former Justice of the Supreme Court of Canada as keynote speaker, the event included a practical workshop on deal facilitation for successful joint ventures, as well as interactive panels on arbitration clause drafting and trends in dispute resolution between Canada and the USA. CPR's President & CEO Noah Hanft also presented at the 2017 IACCM Americas Conference in Toronto, Canada: "Becoming a 'Commercial Powerhouse': Oversight, Innovation and Smart Contracting," on the importance of ADR issues to contract managers.

Continuing its 2017 Canada momentum, CPR formally launched its Canada Advisory Board (CAB), co-chaired by Robert Wisner of McMillan and Nina Mapara, Vice President, Canada Region Counsel at Mastercard, with David Ziegler of Fasken Martineau DuMoulin serving as its Secretary. The CAB meets regularly to work on initiatives of interest to CPR members in Canada and to increase CPR's presence in Canada. Finally, CPR entered into an agreement with Arbitration Place, through which the two organizations will collaborate on future arbitration-related conferences and events in Canada and beyond.



01. Karyn Sullivan, Labatt Breweries of Canada, Anheuser-Busch InBev; Noah Hanft, CPR Institute; Professor Joan Stearns Johnsen, University of Florida - Fredric G. Levin College of Law; Peter B. Sahagian, KPMG Canada; Nicole Rozario, McMillan

02. The Honourable Ian Binnie, Lenczner Slaght Royce Smith Griffin

03. Shelby Grubbs, Atlanta Center for International Arbitration and Mediation; Jennifer Glasser, White & Case; E. Alexandra Dosman, New York International Arbitration Center; Sashe D. Dimitroff, Baker & Hostetler

04. Professor Doug Jones AO, Arbitration Place; Professor Janet Walker, Osgoode Hall Law School

05. Hagit M. Elul, Hughes Hubbard & Reed; Sarah K. McEachern, Borden Ladner Gervais; Michael C. Smith, General Motors of Canada Co.; Howard Krupat, DLA Piper; Robert Wisner, McMillan; and Yonni Fushman, Aecon Group Inc.

06. Noah Hanft, CPR Institute; Karyn Sullivan, Labatt Breweries of Canada, Anheuser-Busch InBev; Olivier André, CPR Institute

BRAZIL

CPR's initiatives in Brazil continue to generate excitement and interest, and CPR's Brazilian membership and panelist numbers continue to grow. The Brazil Advisory Board organized two new subcommittees – one, adapting the European Business Mediation Guide for the Brazilian market, and the other focusing on introducing and promoting mediation in Labor and Employment Disputes in Brazil. CPR's Helena Tavares Erickson discussed the economic benefits of mediation at the International Business Mediation Congress GEMEP/CBAR, as well as the use of ADR in insurance disputes before the Brazilian branch of the International Insurance Law Association (AIDA).

CPR hosted our fifth Dispute Management Congress in Curitiba, Brazil, focusing on **“Challenges and Opportunities in Times of Crisis,”** in association with Arbitac (Câmara de Mediação e Arbitragem) and ACP (Associação Comercial do Paraná), and hosted by Universidade Positivo. More than 200 registrants attended the program, which featured a keynote address by Adriana Braghetta of L.O. Baptista, as well as panels on turning conflict into commerce, court-ordered mediation in practice and early case assessment. CPR welcomed participants from companies as diverse as Swiss Re, Assurant, Ambev, Shell do Brasil, General Motors, Renault, Phillips Morris and Pfizer. Year after year, CPR's Brazil Congress is considered the preeminent Brazilian ADR event.



01. Vilma Toshie Kutomi, Mattos Filho, Veiga Filho, Marrey Jr e Quiroga

02. Henrique Gomm Neto, Gomm Advogados; Fernanda Levy, Institute D'Accord; Gilberto Giusti, Pinheiro Neto; Angélica Walker, International Law Consultant, Brazil; Albert Hilber, Swiss Re and International Association of Defense Counsel; Rodrigo de Oliveira Franco, Arruda Alvim, Aragão, Lins, Sato & Vasconcelos Advogados and Comissão de Jovens Arbitralistas da ARBITAC; Flávio Spaccaquerche Barbosa, Mattos Filho, Veiga Filho, Marrey Jr e Quiroga Advogados

03. Crowd

04. Keynote Speaker Adriana Braghetta, L.O. Baptista

05. Hagit Muriel Elul, Hughes Hubbard & Reed; Olivier André, CPR Institute

06. Mauricio Gomm Santos, GST

07. Adelmo de Moura Machado, Assurant; Marcela Kohlbach de Faria, Leste Credit Gestão de Recursos; Marcela Sussekind Veríssimo, Shell do Brasil; Gilberto Giusti, Pinheiro Neto; Joan Stearns Johnsen, JSJ-ADR and University of Florida

08. Alexandre Pessoa, Koury Lopes; Eduardo Milleo Baracat, 9th District Court Judge, Curitiba, Paraná State; Gabriel Alves Muniz dos Santos, Grupo Atos

09. Welcome remarks by Olivier André, CPR Institute and Prof. Fernando José Breda Pessoa, Conselho Administrativo da ARBITAC



10. Cesar A. Guimarães Pereira, Justen, Pereira, Oliveira & Talamini; Daniela Monteiro Gabbay, Mange & Gabbay; Marcelo Pontes Oliveira, General Motors, Mercosul

11. Thomas Benes Felsberg, Felsberg e Associados; Albert Hilber, Swiss Re and International Association of Defense Counsel; Joaquim Ferraz Martins Filho, Renault and Head of Corporate Lawyers Committee; Lauro Ribeiro, Valmet; Hagit Muriel Elul, Hughes Hubbard & Reed

12. Gilberto Giusti, Pinheiro Neto; Fernanda da Silva Gomes, Ambev; Adelmo de Moura Machado, Assurant

13. Noah Hanft, CPR Institute; Vanessa Castilho, Enaex Britanite; Renata de Paiva Puzzilli Comin, Phillip Morris; Christiana Abbade do Couto, Supremo Cimentos

14. Monica Mendonça Costa, TozziniFreire; Rita Vasconcelos, Arruda Alvim, Aragão, Lins, Sato & Vasconcelos; Roberto Portugal Bacellar, Vice Chief-Justice of the Court of Appeals of Paraná; Cesar A. Guimarães Pereira, Justen, Pereira, Oliveira & Talamini

15. Joaquim de Paiva Muniz, Trench, Rossi e Watanabe; Fernanda Levy, Institute D'Accord; Henrique Gomm Neto, Gomm Advogados; Flavio Ribeiro Bettega, Rodrigues and Bettega; Fátima Cristina Bonassa Bucker, Bonassa Bucker

16. Shirley Meschke, Pfizer

17. Diego Faleck, Faleck & Associados

18. Monica Mendonça Costa, TozziniFreire

The Applicability of Corporate Dispute Principles to Global Conflicts

CPR's President & CEO, Noah J. Hanft gave two speeches on this topic this year – one before the International Symposium on Cultural Diplomacy in the UN, on the Syrian conflict from the humanitarian perspective; and the other before the International Center for Ethno-Religious Mediation (ICERM), on the theme of “Living Together in Peace and Harmony.” In his ICERM speech, Noah discussed the power of mediation, not only to resolve disputes, but to actually change culture; as well as the lessons one can unpack from corporate dispute resolution and apply to seemingly intractable world disputes. ICERM also presented Noah with an Honorary Award in recognition of his Contributions of Major Significance to Conflict.



ICERM President & CEO, Basil Ugorji, with Noah Hanft, CPR



COMMITTEES AND TASK FORCES: PARTNERS IN INNOVATION

One of CPR's greatest strengths has always been the work produced by its industry committees, councils and task forces that are organized around practice areas. This year was particularly exciting, due to the re-energizing of many industry-specific committees and an infusion of new leadership and engagement, leading to a significant increase in CPR programs and products – and with many more on the horizon.

THE CPR COUNCIL*

For decades, CPR has enabled in-house counsel, law firms and leading academic researchers to come together, collaborate and spearhead innovation in commercial conflict management. This partnership in development of the next generation of best-in-class approaches to dispute resolution is the hallmark of CPR membership and enables a level of innovation and effectiveness that would otherwise be impossible.

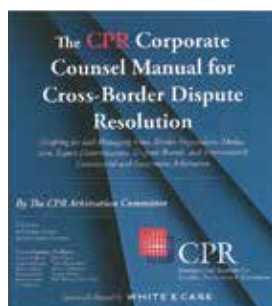
Every CPR corporate member has a seat on the Council, as do several leading law firms, neutrals and academics. Within the Council, members identify emerging issues and share approaches to taking commercial dispute resolution to the next level. The Council then partners with CPR Committees to advance work on specific projects – such as the *Mediation Best Practices Guide for In-house Counsel* released by the Mediation Committee, just one example of the power of such partnership as a driving force in enhancing both CPR's member offerings and dispute resolution capacity and capability around the world.

**A complete list of CPR Council Members appears at the back of this book.*

COMMITTEES

Notable accomplishments came this year from CPR's **Arbitration Committee**, CPR's largest. They included the release of *CPR's Corporate Counsel Manual for Cross-Border Dispute Resolution*, an indispensable new resource that provides guidance on drafting and planning for any common form of alternative dispute resolution in international business transactions, as well as tips on managing specific situations in-house counsel may encounter in international business disputes. Several of the manual's authors spoke on a November panel, which was then recorded and placed into CPR's ever-expanding library of recorded programs.

In terms of Committee leadership, Hagit Elul of Hughes Hubbard took the reins of the Arbitration Committee from Ank Santens, and Jennifer Glasser of White & Case joined Felix Weinacht of Deutsche Bank as Co-Vice Chairs. The Committee held a successful presentation on Third Party Financing and set up several subcommittees. One is now preparing an important cybersecurity protocol jointly with ICCA and the New York City Bar Association. The second subcommittee will address alternative fee arrangements in ADR and a third subcommittee, led by Viren Mascarenhas of King & Spalding, will prepare a practical dispute resolution guide focusing on India.



John Bickerman. Andy Moody, of Baker & McKenzie in London, joined the **Energy, Oil and Gas Committee** as Vice Chair alongside Chair Karl Stern of Quinn Emanuel, and also hosted a VIP energy-insider event featuring in-house counsel speakers in Houston in January. Finally, the **Employment Committee** saw the arrival of Raytheon's Chuck Coleman as Co-Chair.

The **2017 Non-Administered Rules Revision Committee**, under the leadership of Dana MacGrath of Sidley, embarked on a comprehensive review and updating of CPR's 2007 domestic and international non-administered rules.

Other committee programming highlights include the **Transactional Disputes and Resolution Committee's** webinar on dispute resolution clause drafting, featuring Tom Sabatino, General Counsel of Aetna, Inc., and Michael Keating of Foley Hoag; and (in addition to their launch of the new Guide) the **Mediation Committee's** Mediation Week "Open Forum exploring (In) Civility in Mediation," featuring well-respected neutral, Jack Levin.

The **Environmental Committee** welcomed Steven Antunes of AEGIS Insurance Services, Inc, as Co-Chair alongside

CPR COMMITTEES AND TASK FORCES



CPR Council



Environmental Committee



Arbitration Committee



Healthcare and Life Sciences Committee



Banking and Financial Services Committee



Insurance Committee



Brazil Advisory Board



Intellectual Property Disputes Committee



Construction Advisory Committee



Mediation Committee



European Advisory Board



National Task Force on Diversity in ADR



Employment Disputes Committee



Transactional Dispute Prevention and Solutions Committee



Energy, Oil & Gas Committee



Y-ADR Steering Committee

CPR'S YOUNG ATTORNEYS IN DISPUTE RESOLUTION

CPR's Young Attorneys in Dispute Resolution (Y-ADR) program promotes the full spectrum of dispute resolution mechanisms with the younger generation of lawyers – i.e. those who are 45 years old or younger or those with less than eight years of professional experience in ADR practice. Through periodic seminars and other initiatives, Y-ADR participants gain an insider's



look at the role of dispute resolution processes and practices in corporations and multinational organizations. More

importantly, they have an opportunity to network with in-house counsel and experts in the field.

The Y-ADR Steering Committee is the leadership group for Y-ADR. This year, CPR announced a new Y-ADR Steering committee, increasing the number of members from 20 to 29. Based in the US, Europe, Canada and Brazil, the group is equally divided into in-house counsel and outside practitioners. This year, Debevoise & Plimpton Partner Natalie Reid joined sitting Co-Chair and Senior Legal Counsel at ConocoPhillips, Alberto Ravell, to chair. Dana MacGrath of Sidley Austin stepped down after many years as Chair, but continues to serve as Chair Emeritus.

This year, the Steering Committee hosted several exciting global events focusing on various aspects of effective partnering with in-house counsel and international arbitration – including at White & Case in Geneva and London, at Shearman & Sterling in Washington,

DC and at Reed Smith in Houston. In São Paulo, the Committee hosted a Mock Procedural Hearing under the CPR Rules for Administered Arbitration of International Disputes at BMA. And we capped off our year with a festive “Year in Review” event at Debevoise & Plimpton in New York, which gathered 150 participants, including representatives from other ADR organizations and CPR interns.

London-based Y-ADR Steering Committee James Freeman, Allen & Overy; Tom Miles, Shell Int'l Limited; Katie Gray, Bechtel Group, Inc.; Olivier André, CPR; Tomas Vail, White & Case



Bart Schwartz of Assurant, Inc. presenting the award to Jared Hubbard

Finally, Jared Hubbard of Hubb Legal, PC in Newburyport, MA, won the 2017 (and inaugural) **Y-ADR Annual Writing Award for Efficient & Effective Collaboration Between Corporate Counsel and Outside Counsel.** His winning article was entitled, “Charting a Course for Success: The Importance of an Initial Case Plan.” The award was presented at a lunch ceremony at CPR's Annual Meeting and Mr. Hubbard's winning entry was published in *Alternatives*.

PERSPECTIVES ON ADR



“During the next decade, you will likely see a gradual expansion, and greater use, of various ADR techniques, especially mediation. In addition, law firms and their clients will continue to develop new innovative methods of billing and determining the

value of legal representation. There will likely be some additional model examples of aggregate claims resolution in disputes involving mass litigation (similar to the 9/11 Victim Compensation Fund, the BP Oil Spill Fund and the GM Ignition Switch Compensation Fund). In such rare but important cases, corporate defendants and their lawyers will design and administer new claims resolution programs outside the conventional court umbrella. There will continue to be a new awareness that creative problem solving will pose real advantages to plaintiffs and defendants alike. Our existing court system, and adversary system, will not be replaced; but new creative alternatives will continue to develop and be adopted as credible, cost-effective and efficient.”

Kenneth Feinberg
Founder, Managing Partner,
The Law Offices of Kenneth R. Feinberg, PC



MEETINGS AND EVENTS – DISPUTE RESOLUTION’S MOST ENGAGED AND COLLABORATIVE COMMUNITY

Nothing better demonstrates the power of the CPR approach to dispute resolution than the extraordinary in-person exchanges that take place at CPR’s events. At its annual meetings, specialized trainings with leading neutrals and Y-ADR events, CPR convenes skilled and experienced counsel from leading companies and law firms, neutrals, academics and judges to address changes and challenges in dispute resolution, and exchange perspectives and best practices. Presentations and discussions are always interesting, often challenging and highly interactive.

CPR’S ANNUAL MEETING

CPR hosted its **2017 Annual Meeting, “Pathways to Partnership,”** in March 2017 at the historic Biltmore Hotel in Coral Gables, FL. The event was attended by 200 practitioners and thought leaders, including an elite group of corporate executives, top law firm counsel, leading neutrals, and esteemed judges and academics.



AM17 began with an opening keynote address by **Jan Paulsson**, noted international arbitration scholar and practitioner who has acted as advocate or arbitrator in hundreds of arbitrations in all familiar venues. The panels program on **Day One** began with “The Rise of the Legal COO,” in the context of dispute resolution’s role in clients’ relationships with their counsel. The next panel, “Dispute Resolution in the Caribbean,”



addressed the varying, but potentially soon to be harmonized, civil or common law systems among the nearly two dozen countries that comprise “the Caribbean.”

Keynote speaker
Jan Paulsson

At our awards lunch on **Day One**, CPR debuted its new *Corporate Counsel for Cross-Border Dispute Resolution Manual*, drafted by the Arbitration Committee. The afternoon continued with “Court Ordered Mediation in Practice,” examining “The Florida Model”; “Facilitating Settlements: Does the Arbitrator Have a Role?”, addressing methods of enabling settlements while maintaining independence and impartiality; and “Preventative Lawyering,” examining “Lessons Learned from the Construction Industry.”

On the evening of Day One, CPR was pleased to award the **Inspiring Innovation Award** to **ConocoPhillips** and **Laura Robertson**, Deputy General Counsel, Litigation & Arbitration, for their innovative ADR thinking and excellence in execution.

The program on Day Two began with a keynote address by **David Seaton**, Chairman and CEO of **Fluor Corp.**, one of the world’s leading and largest engineering, procurement, construction and maintenance services companies. Day Two continued with a number of exciting break-out sessions, including a Y-ADR-sponsored skills-building training session, as well as presentations on intellectual property and “The Potential and Promise of Online Dispute Resolution.”

At a luncheon ceremony, CPR announced the winners of its **34th Annual Academic Awards**, focused on processes, techniques, systems, commitment and scholarship, addressing the resolution, prevention or creative management

of major disputes. The afternoon continued with sessions on “Arbitration: Procedural Fairness v. Efficiency”; a Business Roundtable at which leading General Counsels discussed strategic issues they face in dispute resolution; and our ever-popular Ethics panel, focusing on arbitrator conflicts of interest, developments in disclosure obligations of arbitrators and disclosure obligations of counsel.



Inspiring Innovation Award

CPR Board Chair Carlos Hernandez, Fluor Corp., presenting the Inspiring Innovation Award to ConocoPhillips and Laura Robertson, Deputy General Counsel, Litigation & Arbitration

PERSPECTIVES ON ADR



“In the years ahead, I think we will continue to see a greater focus on an important trend that CPR certainly has been trying to drive – and that is prevention as ‘the new resolution’ – or at least a very important prelude to it. Growing up, professionally

speaking, as a transactional lawyer, one of the last things I would think about is what would happen if my deal broke down. You tend to be more focused on getting all the terms resolved, what the parties anticipate is going to happen, and so when you get to a discussion of the dispute resolution clause, there’s a tendency to defer to the litigators and to sort of take a cursory look.

Having gone from being primarily a transactional lawyer to being the General Counsel of companies that are always in disputes, I came to a newfound appreciation for the importance of these provisions. When you actually get into a dispute, and the clauses have not been done correctly, the harm that can be done to an organization is immense. Therefore, my teams are always very focused on them, making sure we think through the arbitration provisions and the dispute resolution process in general, as an integral part of the transaction itself.”

Thomas J. Sabatino
Senior Vice President, General Counsel,
Law & Regulatory Affairs
Aetna, Inc.

AWARDS FOR OUTSTANDING SCHOLARSHIP IN ADR

At the 2017 Annual Meeting, CPR presented its **34th Annual Awards for Outstanding Scholarship in ADR**, recognizing stellar scholarship in this field. Award criteria focuses on processes, techniques, systems, commitment and scholarship, which address the resolution, prevention or creative management of major disputes.

Outstanding Professional Articles

The Award for Outstanding Professional Article recognizes articles published by academics and other professionals that advance understanding in the field of ADR. This year, the award was granted to:

Harold Abramson

“Nelson Mandela as Negotiator: What Can We Learn from Him?” 31 Ohio St. J. on Dispute Resolution 1 (2016)

Ben Giaretta

“Project Management in International Arbitration” 3 McGill J. of Dispute Resolution 66 (2016-17)”

Honorable Mention:

Douglas N. Frenkel & James H. Stark

“Improving Lawyer’s Judgment: Is Mediation Training De Biasing?” 21 Harv. Neg. L.R. 1 (2015)



Ben Picker, Stradley Ronon, awards the Outstanding Professional Article award to Prof. Harold Abramson, Touro Law Center



Tom Sabatino, Aetna (and CPR Board Vice Chair) awards the Original Student Article Award to Theresa Mullineaux

Joseph T. McLaughlin Original Student Article Award

The Joseph T. McLaughlin Student Article Award, endowed through the year 2021 in honor of Joseph T. McLaughlin – a former CPR Board member, long-time CPR supporter, and prolific advocate for effective conflict resolution practices as a practitioner, academic, writer and speaker – recognizes an article or paper written by a student that was focused on events or issues in the field of ADR. This year’s award was presented to:

Theresa Mullineaux

“The Latest NFL Fumble: Using its Commissioner as the Sole Arbitrator: State ex rel. Hewitt v. Kerr,” 461 S.W.3d 798 (Mo. 2015)

PERSPECTIVES ON ADR



“Largely as a result of well-publicized abuses of mandatory arbitration clauses in adhesion contracts, the integrity of the arbitration system has been brought into question. Arbitration is increasingly perceived as corrupt tool by which

powerful interests impose their will rather than as an impartial and efficient means of dispute resolution. To combat this perception stakeholders (including CPR) need to address the root causes (e.g., provide correctives for power imbalances in the implementation of non-negotiated arbitration agreements and enhance protections to insure neutrality) as well as develop a coherent counter-narrative.”

Greg Gallopoulos

SVP, General Counsel, Corporate Secretary,
General Dynamics



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2017 ANNUAL MEETING

01. John Barkett, Shook, Hardy & Bacon, creatively making his point with a balloon animal
02. Mauricio Gomm Santos, GST, and John Barkett, Shook, Hardy & Bacon
03. Our panel on Preventative Lawyering – Lessons Learned from the Construction Industry: Sarah Biser, Fox Rothschild; Jennifer Fletcher, (then with) Eversheds Sutherland; Richard Lowe, Duane Morris; Scott Partridge, Monsanto Co.; Deborah Mastin, Mediator & Arbitrator
04. An engaged audience at the historic Biltmore Hotel in Miami
05. CPR Board Chair, Carlos Hernandez, Fluor Corp., and Ank Santens, White & Case, unveiling CPR's new *Corporate Counsel Manual for Cross-Border Dispute Resolution*
06. Tai-Heng Cheng, Quinn Emanuel Urquhart & Sullivan and Natalie Reid, Debevoise & Plimpton
07. David T. Seaton, Chairman and CEO of Fluor, Corp., our Day 2 Keynote Speaker
08. Eric Green, Resolutions
09. Stephen Drymer, Woods; Lucy Greenwood, GreenwoodArbitration; Brian King, Freshfields Bruckhaus Deringer, during the Y-ADR Skills Training Session
10. Vanessa Alarcón Duvanel, White & Case; Dana MacGrath, Sidley Austin; Vikki Rogers, Institute of Commercial Law; C.J. Mahoney, Williams & Connolly
11. David Burt, CPR; Lillian Stenfeldt, Rimon Law; Dr. Hansjörg Stutzer, MCI Arb, Thouvenin Rechtsanwälte; Bennett G. Picker, Stradley Ronon
12. Bart Schwartz, Assurant, Inc. and Sara Moss, Estee Lauder Companies, on the Business Roundtable Panel
13. Prof. Calvin Hamilton, Univ. of the West Indies; Leidilyn Contreras, Directorate of Foreign Trade, Ministry of Industry and Commerce, Dominican Republic
14. Peter Drucker, AkzoNobel N.V.; Sarah Liams and Michele Hale DeShazo, both of Kuchler Polk Schell Weiner & Richeson; and Steven Antunes, AEGIS Insurance Services, Inc
15. Prof Jan Paulsson, Three Crowns and Univ. of Miami School of Law, our Day 1 Keynote Speaker
16. Ellen Parker, KPMG; CPR Board Vice Chair, Tom Sabatino, Aetna, and Joan Sabatino
17. Kelly Tullier, Visa
18. Steven Comen, Goodwin, and Stephen Younger, Patterson Belknap Webb & Tyler
19. UNKNOWN; Laura Robertson, ConocoPhillips; Noah Hanft, CPR
20. Tom Sabatino, Jr., Aetna; Ronald Prague, Synchronoss; Lucy Fato, Nardello & Co; and David Allen, MassMutual Financial Group



TRAININGS

Throughout the year, CPR offers a number of trainings at the CPR Institute or in conjunction with other events or organizations. They are led by acknowledged subject-matter experts, employ an interactive format, and provide practical understanding and application of ADR tactics. This year, CPR continued to develop and present custom training designed to address specific business needs to multiple corporate members.

Our four-day **Advanced Mediator Training**, leading to gold standard international accreditation, was held in conjunction with the **Centre for Effective Dispute Resolution (CEDR)** in January at Hogan Lovells' New York offices. Leading trainers James South, Chula Rupasingha and Heather Allen presided, sharing skills and invaluable best practices with the 18 people who participated.



In addition, through our recently formed partnership with CEDR, CPR members received a 10% discount for CEDR's Mediator Skills, and Employment & Workplace Mediator Skills trainings, held this year in London, Dublin, Paris, Barcelona and Hong Kong.

Finally, this year senior CPR staff shared their knowledge and experience on the importance of ADR clause drafting. Olivier P. André, Vice President, International and Dispute Resolution Services, was a faculty speaker at a seminar on **"Drafting Arbitration Clauses and Agreements for Domestic and International Transactions and Disputes"** organized by the Institute of Continuing Legal Education in Georgia at the State Bar of Georgia Conference Center. And Helena Tavares Erickson, Senior Vice President, Dispute Resolution Services, presented **"Ask the Expert: Drafting Dispute Resolution Clauses"** in an online presentation for the International Association of Contract Managers.

PERSPECTIVES ON ADR



"Dispute resolution has grown exponentially over the past few years. Despite this success, it has failed to anchor itself into the legal culture of African countries. Mauritius, an island off the coast of Africa, has been the most promising

dispute resolution hub for Africa but not many African countries have followed its lead. Recent developments have however signaled a change in attitude, particularly in influential African countries such as South Africa. In 2017 South Africa introduced the International Arbitration Bill that will see the UNCITRAL Model Law adopted into domestic law. The Bill was subsequently accepted by the National Council of Provinces and is awaiting approval from the National Assembly. South Africa is just one example of African countries growing acceptance of an important area of procedural law – an area that will provide relief for millions of Africans that cannot afford time consuming, costly and often biased litigation proceedings. The next decade of dispute resolution will therefore be the decade of Africa. Its momentum will need the support of institutions such as the International Institute for Conflict Prevention and Resolution. Their experience in developing rules, administering dispute resolution proceedings and collaborating with similar institutions across the world will be invaluable to African countries in the decade to come."

Lyn Lawrence
Candidate Attorney South Africa

2017 CORPORATE LEADERSHIP AWARD DINNER

Each year, CPR honors a corporation and a general counsel that have demonstrated leadership in the field of conflict management and have institutionalized ADR into their legal structure and corporate culture. The Award is presented at a black-tie event that draws approximately 500 attendees representing the general counsel from Fortune 200 corporations, partners from leading law firms, and industry experts and scholars who come together to demonstrate the importance of ADR. Since inception, the event has raised more than \$8 million for CPR's public policy research and programs, as well as our initiatives internationally. Past honorees have included General Motors, 3M Co., United Technologies, Johnson & Johnson, General Electric, Ernst & Young, ConocoPhillips, Microsoft, DuPont, Pfizer, Amgen, FMC Technologies, GlaxoSmithKline, Royal Dutch Shell and Hewlett-Packard.

At the **2017 Corporate Leadership Award Dinner** in New York, CPR and its distinguished guests honored AT&T Inc. and David R. McAtee II, Senior Executive Vice President and General Counsel.

DINNER COMMITTEE

Chair

Charles R. Morgan
President & CEO
The Morgan Group

Bruce R. Byrd
Chief Legal Officer
AT&T Communications

Mary Beth Cantrell
Senior Associate General Counsel
Amgen Inc.

Paul T. Cappuccio
Exec. VP & General Counsel
Time Warner Inc.

Randall Ebner
Vice President and General Counsel
ExxonMobil Corp.

Joseph B. Frumkin
Partner
Sullivan & Cromwell

Gregory S. Gallopoulos
SVP, General Counsel,
Corporate Secretary
General Dynamics Corp.

Craig B. Glidden
Executive Vice President and
General Counsel
General Motors Co.

Carlos M. Hernandez
Chief Legal Officer and Secretary
Fluor Corp.

Maureen R. Jeffreys
Partner
Arnold & Porter Kaye Scholer

Anne M. Johnson
Partner
Haynes and Boone

Peter D. Keisler
Partner
Sidley Austin

Michael K. Kellogg
Partner
Kellogg Hansen Todd Figel &
Frederick

Marc Kesselman
General Counsel,
Corporate Secretary &
Government Affairs
Yum! Brands, Inc.

Daniel M. Petrocelli
Partner
O'Melveny & Myers

Theis Rice
Sr. Vice President and
Chief Legal Officer
Trinity Industries, Inc.

Wm. Randolph Smith
Partner
Crowell & Moring

Robert C. Walters
Partner
Gibson, Dunn & Crutcher

A. Michael Warnecke
Partner
Akin Gump Strauss Hauer & Feld



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2017 CLA DINNER

01. Marty L. Brimmage, Jr., Akin Gump Strauss Hauer & Feld; Sarah Teachout, Trinity Industries, Inc.; Thomas H. Yang, Akin Gump Strauss Hauer & Feld; Lacy M. Lawrence, Akin Gump Strauss Hauer & Feld; Kevin E. Cadwell, Akin Gump Strauss Hauer & Feld
02. M. Sean Royall, Gibson, Dunn & Crutcher; Bruce R. Byrd, AT&T Communications
03. The Milstein Hall of Ocean Life
04. Naomi Daysog, TM Financial Forensics; Elizabeth Dean, TM Financial Forensics; Mary Beth Cantrell, Amgen Inc.
05. William K. Mosca, Jr., Bevan, Mosca, Giuditta & Zarillo; Misa T. Lawrence, Bevan, Mosca, Giuditta & Zarillo; Clifford K. Williams, Bevan, Mosca, Giuditta & Zarillo; Marisela S. Ross, Bevan, Mosca, Giuditta & Zarillo; Joseph Tocco, AT&T Services Inc.
06. A. John P. Mancini, Mayer Brown; Paul W. Theiss, Mayer Brown; Allison L. Stillman, Mayer Brown; Howard W. Waltzman, Mayer Brown; Rajesh De, Mayer Brown
07. Carlos M. Hernandez, Fluor Corp., Dale L. Matschullat, Schiff Hardin; Mark W. Johnson, Newell Brands, Inc.; Robert C. Walters, Gibson, Dunn & Crutcher
08. Paul T. Cappuccio, Time Warner Inc., Lacy M. Lawrence, Akin Gump Strauss Hauer & Feld; David R. McAtee II, AT&T Inc.; Cristy McAtee; Marty L. Brimmage, Jr., Akin Gump Strauss Hauer & Feld
09. Sean W. Gallagher, Bartlit Beck Herman Palenchar & Scott; David R. McAtee II, AT&T Inc.; A. Michael Warnecke, Akin Gump Strauss Hauer & Feld; Paul R. Genender, Weil Gotshal & Manges
10. Helena Tavares Erickson, CPR Institute; Heather McManus, American Kennel Club; Cynthia Beagles, American Kennel Club; Mark W. Johnson, Newell Brands, Inc.; Dale L. Matschullat, Schiff Hardin
11. Aaron Schwartz, AT&T Inc.; James Meza III, AT&T Services Inc.; Bruce R. Byrd, AT&T Communications; William A. Ryan, AT&T Inc.; Gary L. Phillips, AT&T Inc.; Timothy P. Leahy, AT&T Services Inc.; Stacey Maris, AT&T Inc.; David R. McAtee II, AT&T Inc.; Lysha N. Weston, AT&T Inc.; William R. Drexel, AT&T Services Inc.; Christopher Heimann, AT&T Inc.; John J. O'Connor, AT&T Inc.; Lori Fink, AT&T Services Inc.; Joseph Tocco, AT&T Services Inc.; David Lawson, AT&T Services Inc.; Jay Perez, AT&T Inc.
12. Hannah Y. Chanoine, O'Melveny & Myers; Katrina Robson, O'Melveny & Myers; Stephanie M. Philipps, Arnold & Porter Kaye Scholer; Maureen R. Jeffreys, Arnold & Porter Kaye Scholer
13. Karice Rhule, Cravath, Swaine & Moore, Olivier N. Antoine, Crowell & Moring; Lorraine M. Campos, Crowell & Moring
14. Lysha N. Weston, AT&T Inc.; Krissy Turner, AT&T Services Inc.; Jennifer Morris, AT&T Services Inc.; Timothy P. Leahy, AT&T Services Inc.; Anne M. Johnson, Haynes and Boone; Heather New, AT&T Services Inc.
15. Noah J. Hanft, CPR Institute; David R. McAtee II, AT&T Inc.; Charles R. Morgan, The Morgan Group; Carlos M. Hernandez, Fluor Corp.
16. Stacey Maris, AT&T Inc.; David R. McAtee II, AT&T Inc.; Cristy McAtee; Kay McAtee; Jessica W. Thorne, Estes Thorne & Carr; Dawn Estes, Estes Thorne & Carr
17. Peter D. Keisler, Sidley Austin; David R. McAtee II, AT&T Inc.; Michael K. Kellogg, Kellogg Hansen Todd Figel & Frederick
18. Bryant C. Boren, Jr., Baker Botts; Lysha N. Weston, AT&T Inc.; Christopher M. Arena, BakerHostetler; Anne M. Johnson, Haynes and Boone; Chad A. Rutkowski, BakerHostetler; Linda A. Goldstein, BakerHostetler; Tom Restaino, AT&T Inc.; Lisa N. Collins, BakerHostetler



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MARKETING & COMMUNICATIONS

CPR promotes its cutting-edge Rules, Panels, Dispute Resolution Services, Membership benefits and programs to a wide range of stakeholders through a wide range of platforms.

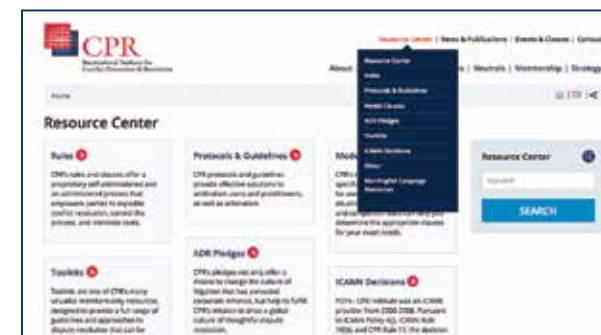
Get Social With CPR

If you are not already doing so, you can follow CPR on Facebook, Twitter (@CPR_Institute) and on its LinkedIn Company page. CPR also has a blog, at <http://blog.cpradr.org/>, and welcomes your contributions.



CPR'S WEBSITE: AN EVER-EXPANDING ADR RESOURCE

CPR's recently redesigned website continues to offer tools and an ever-expanding set of resources to its members, the ADR community and the public. Explore CPR's **Resource Center** and **News** centers to reacquaint yourself with its vast collection of rules, model clauses, protocols, guidelines and publications. One area of particular recent expansion has been CPR's members-only program recordings library, covering topics such as:



- Key Elements of Cross-Border Dispute Resolution Clauses (from the panel celebrating the launch of CPR's new Manual)
- Built to Last: Creating Enduring Commercial Relationships
- How to Select the Right Dispute Resolution Clause for Your Situation
- Y-ADR Mock Procedural Hearing Under CPR Rules for Administered Arbitration of International Disputes
- Fast Track and Baseball Arbitration for Commercial Disputes (produced by the CPR Healthcare & Life Sciences Committee)
- How to Deal with the Insurer in the Arbitration and Mediation Process (brought to you by the CPR Construction Committee), and many more...

For Finding Neutrals... and for Neutrals

Logged-in organizational members have 24-7 online access to search CPR's Panel of Distinguished Neutrals, based upon many criteria, including name, panel subject area, location, language and other factors. Members



can also access "CPR's Newest Neutrals," a periodic members-only publication that introduces those neutrals, both domestic and international, added to our roster during the previous billing period. (The inaugural issue is shown.)

In addition, CPR neutrals can utilize CPR's website to update their bios or panelists questionnaires, and find numerous other resources and information relevant to them.

Interactive Clause-Related Tools

Also on CPR's website, you will find two helpful tools that will allow you to select (or custom craft) the appropriate dispute resolution clause up front, to save yourself issues later.

- The **CPR Dispute Resolution Clause Selection Tool** allows you to select a specific scenario and click through to the appropriate existing CPR clause for your needs.
- The **CPR Complete Clause**, takes users step-by-step through either a domestic or international path, answering questions in order to craft their own ideal clause.

PUBLIC/MEDIA RELATIONS

In 2017, CPR was covered by a number of leading legal and ADR publications:

- *Practical Law* Notes Formation of Working Group on Cybersecurity in Arbitration
- *Law360* Covers New Arbitration Committee Chair, Hagit M. Elul
- *GAR* Covers New Arbitration Committee Chair, Hagit M. Elul
- *CLA* Honoree, AT&T's David McAtee II, Discusses His ADR Philosophy in *Corporate Counsel*
- *NLJ* Honors Noah Hanft and Helena Tavares Erickson as ADR Champions
- *New York Law Journal* Notes Anna Hershenberg's Arrival in its "On the Move" Column
- *GAR* Covers New CPR Board Leaders, New Manual and More
- *Law360* Covers CPR's New International Mediation Procedure

CPR also procured the following bylined articles, either by senior staff or on behalf of some of our Distinguished Neutrals:

- The Applicability of Corporate Dispute Resolution Principles to World Conflicts (*New York Law Journal*)
- Mediating Cyber Insurance Claims During Supply & Demand Disputes by Daniel B. Garrie (*Supply & Demand Chain Executive*)
- Growing Demand for Mediation of Cyber Disputes by Kenneth N. Rashbaum (*Law360*)
- Leading General Counsel Mull Over Mediation (*Corporate Counsel*)
- Making Diversity Happen (*New York Law Journal*)

CPR SPEAKS... AND PUBLISHES

CPR's **blog** has become a become a significant resource for coverage of breaking ADR news developments, as well as thoughtful insight and analysis of ADR issues. In addition to content written by CPR senior staff and LLM student/legal interns, this year CPR published a wealth of original content by well-known and prestigious authors (pulled from its membership and neutrals panel). Select posts included:

A Lesson from the Third Circuit on Arbitration Clauses: Say What You Mean

By Stephen M. Orlofsky and Deborah Greenspan, Blank Rome

Supreme Court Oral Argument on NLRB Class Actions vs. Arbitration Policy

By Mark Kantor

Growth of Cannabis Plants and Issues Fertilizes Legal and ADR Business

By Judge Steven Platt

Managing Risk in International Arbitration: Third Party Funding Developments in Asia

By Meriam Al-Rashid and Dora Ziyaeva, Dentons

Judicial Reforms in Poland – Context and Controversy

By Maciej Jóźwiak, Wierzbowski Eversheds Sutherland

Shall We Have an Adult Conversation About Legitimacy?

By Jan Paulsson, Three Crowns

ALTERNATIVES

Alternatives to the High Cost of Litigation in 2017 presented the newsletter's customary blend of news analysis and cutting-edge conflict resolution practice articles that readers have expected for 35 years.

Focusing on cutting-edge mediation practice issues, and analyzing news of changes in arbitration at the hands of regulators and the nation's courts, *Alternatives* pointed practitioners to key worldwide ADR developments. Readers were warned of impending changes and happenings in their field ahead of the general and legal press.

Our pages revealed, for example, new uses of ADR-centric processes by special masters and in mass tort employment litigation facilities, which were debuted to the profession with landmark data and analysis.

After a decade in which *Alternatives* won 12 national business journalism and communications awards for its writing and commentary, the newsletter continues to be the leading venue for discourse in the business conflict resolution community with timely, in-depth analysis of essential developments, techniques and emerging issues.

The articles reflect perspectives from every element of the commercial dispute resolution community – expert users, zealous advocates, and legendary neutrals. Readers in 2017 relied

on *Alternatives'* pages for everything ADR – from techniques for getting past money demands to reach a mediation settlement, to enforcing arbitration awards internationally.

Alternatives' theme has evolved over its decades to a concentration on early dispute resolution from a focus on litigation costs. The newsletter seeks to orient parties toward prevention and dispute management that resolves problems long before the courtroom.

Alternatives continues to be the leading venue for discourse in the business conflict resolution community

In 2017 news stories, *Alternatives* analyzed every step in the drama involving the Consumer Financial Protection Bureau's move to restrict consumer financial arbitration, from the evolution of its final rule outlawing class waivers to the rule's demise at the hands of Congress and President Trump. *Alternatives* also provided unmatched comprehensive coverage of the employment class waivers/arbitration fight in front of the Supreme Court.

Accompanying the arbitration analysis was CPR's longtime focus on commercial mediation, closely covering California's moves to loosen medication confidentiality in attorney malpractice cases.

Alternatives featured analysis on complex mediation practice issues by some of the world's leading mediation experts from the U.S. and abroad – a 2017 mediator-author A-list that included Hal Abramson, Jeanne Brett, Beatrice Blohorn-Brenneur, James Freund, Stephen Goldberg, David Hoffman, Roger Jacobs, Jeff Kichaven, Bill Marsh, Bennett Picker, Nancy Rogers, Birgit Sambeth Glasner and Jerry Weiss.

And monthly Master Mediator columnist Robert Creo is in the midst of a two-year *Alternatives* study on the different emotions – positive and negative – that affect mediation settlements.

Alternatives is edited by Russ Bleemer and co-published by the CPR Institute with international publisher John Wiley. The magazine is provided on multiple platforms, including print; multiple dedicated websites that include full text and individual articles; academic, legal and commercial databases, including full text on Lexis and Westlaw; and via a Wiley web app that is available for free to CPR Institute members and subscribers.

PERSPECTIVES ON ADR



"Considering we have already had a great evolution in dispute resolution, I hope we have in the short term future a more sophisticated approach. Alternative Dispute Resolution will continue to remain an important tool to help parties quickly compromise on issues,

often with commercial solutions that would not be possible for a court to order. However, we should not lose sight of the value of having certain issues dealt with by the courts. Court decisions often add clarity to certain issues that can be used by parties in future disputes to more quickly narrow issues and increase the chance of successfully resolving a dispute using ADR. As such, ADR compliments the court process and vice versa. ADR reduces the burden on the courts and is often a more cost effective and less time consuming method of resolving disputes, but equally the courts helps parties to use ADR successfully."

Eduardo Palinkas

Litigation Manager for Brazil, Latin America and Canada
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TO THE HIGH COST OF LITIGATION

The Newsletter of the International Institute for Conflict Prevention & Resolution

Special Report: Neutrals

Are Legal Disputes Just About Money? Answers from Mediators on the Front Line

BY HAL ABRAMSON, BRIGIT SAMBETH GLASNER, BILL MARSH, BENNETT G. PICKER, AND JEFF

INTRODUCTION BY HAL ABRAMSON

Any most disputes in mediation just about money? That's an old and familiar question that many lawyers still seem to reply to with an emphatic, "yes." Mediated cases are frequently viewed as a clash of binary claims, subject only to a sorting-out of financial winners and losers. This popular vision was challenged by an American Bar Association panel of experienced commercial mediators. They explored the opportunities that they have

seen for breaking out of this conflicting legal mold. Their years of practice have taught them that many disputes are not just about money even when money is the present

ing issue. When preparing the first edition in 2004 of my book, *Mediation Representation*, I gave attention to this persistent question when I listed a key theme as "You have little money if you approach the is only about money" (the Mediation Representation of Parties-Solent, 7 (Japan, M

Whenever I lecture on mediation get pushback from mediators who claim that it's about money from through multiple responses, number a all experienced, highly-organized mediators.

This article is based on a session program at the annual event on Dispute Resolution Mediators: Are Not Only Mediators and Advocates are" (NYC, April 18, 2014) that panel in my capacity

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The Newsletter of the International Institute for Conflict Prevention & Resolution

VOL. 35 NO. 11 DECEMBER 2017

Negotiation

Diplomacy's Question: Can Every Dispute Be Resolved?

BY ROGER B. JACOBS

I recently attended a small group celebration in honor of the late Israeli politician and two-time prime minister, Yitzhak Rabin, at Newark, NJ's New Jersey Performing Arts Center. The presentation focused, among other things, on steps for mediating dispute resolution. Present were Daniel Kattar, who served as U.S. ambassador to both Egypt and Israel, and is now a professor at the Woodrow Wilson School of

Public and International Affairs at Princeton University; former Israeli ambassador to the United States Haim Rabinovich, and Rabin's daughter, Dalia Rabin-Pelcovsky.

During the conversation, Ambassador Rabinovich recounted the steps leading to potential solutions to some of Israel's problems in the "neighborhood." He specifically spoke about the indirect negotiations between U.S. Secretary of State Warren Christopher, former Syrian President Hafez al-Assad, father of the nation's current president, and Prime Minister Rabin. He detailed the back and forth that went on with Christopher, as well as Rabin's candor to the secretary with regard to a resolution with Syria.

By examining that discussion, as well as reflections from Ambassador Rabinovich's new book ("Yitzhak Rabin: Soldier, Leader, Statesman," published by Yale University Press (March 5, 2017)), we are left with some thoughts and lessons for dispute resolution.

Ambassador Rabinovich recounted events in July 1993, when then-Prime Minister Rabin concluded that Israel's military operations in South Lebanon had

risks to ensure there were no further steps to be made. Rabin asked the Clinton administration to use its good offices with Assad to negotiate a cease-fire under terms that would provide stability in South Lebanon.

This was done by Secretary of State Christopher and Dennis Ross (who stayed on and became the head of the U.S. peace team), along with Christopher's Syrian counterpart Farouk al-Shara. It was a performance of sorts, al-Shara would claim that, of course, Syria had an influence over Hezbollah, but somehow he did manage to work out the cease-fire agreement. Christopher and Ross did the initial work for the agreement via the phone and then flew to the region in August 1993 to finalize the deal.

See "Yitzhak Rabin: Soldier, Leader, Statesman" at 192-193.

Rabinovich reported that Warren Christopher did just realize at that time that their visit would become a crucial turning point in the history of the peace process. Rabin decided the time had come to make

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Mediation

Dealing with Difficulties: What to Say When Parties Won't Settle and Only Want to Prove They Are Right

BY STEPHEN B. GOLDBERG, JEANNE M. BRETT, AND BEATRICE BLOCHM-BRENEUR, WITH NANCY H. ROGERS

This article, adapted from "How Mediation Works: Theory, Research, and Practice," published earlier this year by Emerald Insight, is intended in part for a traditional audience of mediators, aspiring mediators, and lawyers. But the book also aimed at a broader audience, including the increasing number of disputants who have been alerted or encouraged to mediate by judges or lawyers, yet know little or nothing about it.

The book relies on the combined mediation experience of all the authors to ensure that the book is technically sound. "How Mediation Works" is written in plain English, not legalese—it's short, but sufficiently comprehensive to serve as the central text in a mediator training program, or as supplemental reading in a law or business school negotiation or dispute resolution class.

Brett is an examination of what happens when a mediation goes awry—often, the book's Chapter 4, "Dealing with Difficulties." In the book, the gender of the mediator is alternated by chapter, with masculine in one chapter, feminine in the next. Here, the term shifts.

There are significant difficulties that mediators face when parties won't settle and only want to prove they are right.

Mediator 2: I did OK today, but it has been a really tough week. I settled only one of my three mediations ... and I can't

of my mind. Maybe not for me.

THE INABILITY OF THE DISPUTING PARTIES TO REACH AGREEMENT: A mediator's difficulty of great concern to many neutrals is the inability of the disputing parties to reach agreement. The following conversation between mediators would not be unusual.

Mediator 1: I had a really bad day today. I tried everything I know, but I still couldn't get an agreement. What worries me is that my low settlement rate may discourage people from hiring me.

Mediator 2: I did OK today, but it has been a really tough week. I settled only one of my three mediations ... and I can't

of my mind. Maybe not for me.

dealing the mediation agreement is the goal, and the mediator has been reached, and we think more disputing parties (the goal of results) if they can obtain views as superior or Alternative to a

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A Letter From the Chairman of CPR's Finance Budget & Audit Committee

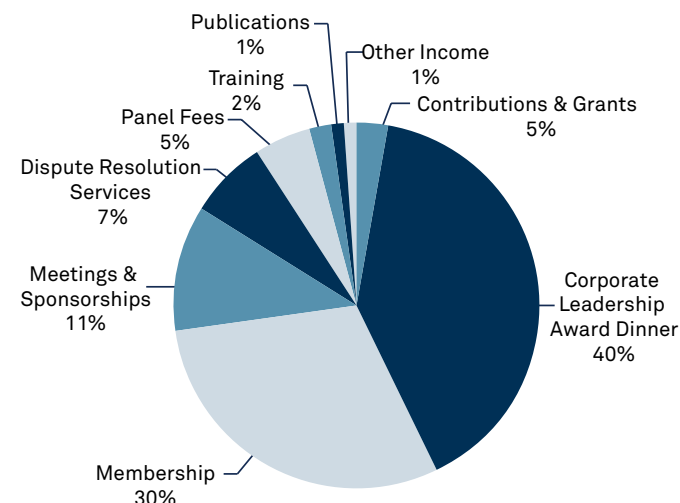


This past year, CPR has developed new programs, hired new staff in key positions and welcomed new members. At the same time, we have increased our investment in our Dispute Resolution Services and in our Panel of Distinguished Neutrals. These efforts are all designed to enhance our service offerings and expand opportunities for our members to participate in CPR's unique and collaborative community.

Over the past five years, CPR's net assets have increased by 123% due to an overall increase in revenues and strong expense management. The fiscal year 2017 (7/1/16-6/30/17) had the highest revenues over this time period as well. The 2016 Corporate Leadership Award Dinner, honoring General Motors and its General Counsel, Craig Glidden, impacted our financial performance significantly with an increase of 64% over the prior year's Dinner. The second annual Inspiring Innovation Award honoring ConocoPhillips and Laura Robertson was a huge success and is now a permanent event at our Annual Meeting, where sponsorships increased 61% over 2016. Both events offer members and friends excellent opportunities to network and learn while supporting CPR's mission. This increased support is also evidenced by the 16% increase in individual contributions. The 5th Brazil Mediation Congress had the highest attendance since its inception and the first annual International Mediation Competition was a resounding success. Finally, we are proud that our Dispute Resolution Services revenue increased by 18% this fiscal year, demonstrating a recognition of the efficient and effective solutions we offer parties to disputes.

At the mid-point of the current fiscal year, I am pleased to report that we are well ahead

FY17 Revenue Distribution



of budgeted revenue goals thanks to a record-breaking Corporate Leadership Award Dinner, which recognized AT&T and its GC, David McAtee, for their leadership in the field of ADR. This event was held at the American Museum of Natural History in New York and attracted 550 guests. With the 6th Brazilian Mediation Congress and 2nd International Mediation Competition taking place in April, and a European Congress planned for May, we expect to finish this year in a strong financial position.

We greatly appreciate the financial contributions, leadership and service of so many of you and our donors. With your continued support, we look forward to sustained growth and even greater impact in the future.

Sincerely,

Dale L. Matschullat

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Julie S. Mazza
DuPont

Sean B. McSweeney
Liberty Mutual Group

Andy Moody
Baker McKenzie

Allan B. Moore
Covington & Burling

C. Michael Moore
Dentons US

John D. Murnane
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Baxter International

Joseph H. Otterstetter
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Ellen Wahl Parker, Co-Chair
KPMG

Charles Patrizia
Paul Hastings

Paul Petta
Mastercard

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Stradley Ronon Stevens & Young

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Raytheon Co.

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Akzo Nobel Inc.

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Gide Loyrette Nouel

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Cleary Gottlieb Steen & Hamilton

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As of November 2017

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IBM Corp.

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 Willkie Farr & Gallagher
 WilmerHale
 Winston & Strawn

PERSPECTIVES ON ADR



“Over the next five to ten years, I hope that the ADR community will recognize the value in online dispute resolution. It’s incredible that people have been talking about ODR for twenty years or so, yet it is still only utilized sparingly. There are a tremendous opportunities to drive savings and efficiency by leveraging technology. I have seen ODR mechanisms used in mediation and arbitration with success and believe it is only a matter of time before these tools are part of our daily practice. Virtual processes and artificial intelligence will be leveraged to design better and more reliable dispute resolution.

CPR is uniquely situated to initiate dialogues on how this evolution can be accomplished and help develop products for members’ use. Change is good, but perhaps best when you are the leader.”

Erin Gleason Alvarez
 Gleason Alvarez ADR, LLC

Panelists and Individual Law Firm Members

As of November 2017

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IN MEMORIAM

CPR lost several dear friends and colleagues this year. We will always remember them, recognizing their significant contributions to ADR and well beyond.



Stephen F. Gates

CPR Board Member (2004 to 2016)
Senior Vice President and General Counsel
ConocoPhillips



Margaret Shaw

Leader and Innovator in Mediation
Winner of CPR's James F. Henry Award in 2013



Jeffrey Sherman

CPR Board Member (2016 to 2017)
Executive Vice President and General Counsel
Becton, Dickinson and Co.



PERSPECTIVES ON ADR



“As litigators, we need to understand the unique contribution that we make to our business, be clear on our purpose, where we add value and how we can help the organisation achieve its goals and ambitions. Litigation is not always the answer and, at

the right time, we support mediation, arbitration and alternative dispute resolution tools. We put more focus on resolving issues without litigation and we do not litigate for litigation’s sake. Winning at all costs is still losing, if the business overall does not win.

As well as having an eye on what protects and creates value for our organisation today, we must also have an eye on the future. This means understanding trends that will impact Shell as a business, as well as more general legal risks. Understanding future risks such as rule of law issues and cyber security is critical if we are to support the business in navigating new opportunities successfully. We operate in a ‘VUCA’ world - that is Volatile, Uncertain, Complex and Ambiguous - where there remain many unknowns. That means we need to be agile, responsive to change and ready to flex our expertise and experience to respond to the challenges that await us. The CPR can help us to understand innovative new approaches to dispute resolution in this brave new world.”

Jim Cowan

Head of Litigation, Africa, Europe and Asia
Shell International Ltd.



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This report is dedicated to the memory of Charles Renfrew,
CPR Chairman Emeritus (1928-2017)



“The future for the CPR Institute is promising, too, if we continue to build on our strengths and uniqueness. We must . . . involve the users of ADR services, not just be an organization of ADR providers. If CPR continues to be supported by those who recognize its unique role in the ADR movement, it will . . . flourish and perform the leadership role it has since its inception.”

Charles Renfrew, in a 2009 *Alternatives* article reflecting on CPR's 30th anniversary