



TEXAS A&M UNIVERSITY
SCHOOL OF LAW

ADR

AGGIE DISPUTE RESOLUTION



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from our Interim Director, Michael Z. Green

Nationwide only a small percentage of cases go to trial. The Texas A&M University School of Law recognizes that the practice of law demands a solid understanding of dispute resolution processes beyond traditional litigation—including negotiation, mediation, and arbitration. As a result, we are proud of our 2016 U.S. News and World Report ranking as the 18th best law school dispute resolution program in the country and the only Texas law school in the rankings. This gratifying recognition from our peers has spurred us to expand the resources allocated to our program and to continue enhancing our national and Texas leadership in the important field of ADR—or, as we like to call it, Aggie Dispute Resolution.

You may already know some of us from our work in the dispute resolution community. Our faculty members serve in such national leadership roles as the Chair of the AALS Alternative Dispute Resolution Section, as the Co-Chair of the ABA Section of Dispute Resolution Employment Committee, and as a regular contributor to Indisputably.org, the Dispute Resolution Professors' blog.

It is my sincere pleasure to also share with you the many more good things our faculty are doing as teachers and scholars, while also introducing you to our excellent overall programming, courses, clinics, and concentration in dispute resolution. Also, because of our strong emphasis on practical application and real-world experience, I wish to highlight the successes of our student teams and the championship awards they have received in recent national dispute resolution competitions. We are very excited about the future of our program at Texas A&M University School of Law, and we hope that you will find the information provided to be a valuable resource. Please do not hesitate to contact me at mzgreen@law.tamu.edu if you have any questions or an interest in our Aggie Dispute Resolution program.

MICHAEL Z. GREEN, Interim Director, Aggie Dispute Resolution Program

ADR FACULTY

Professor Cynthia Alkon



Associate Dean for Academic Affairs, Chair AALS ADR Section

Cynthia's background includes being a criminal defense lawyer (with the Los Angeles County Public Defender) and working on rule of law development in Eastern Europe and the former Soviet Union. Cynthia's scholarship builds on these experiences as she critically examines rule of law assistance efforts, criminal justice reform abroad, and criminal justice issues in the United States. She brings negotiation theory into an examination of plea bargaining and suggests ways to reform this practice, through which most criminal cases are resolved. Cynthia continues to consult with rule of law development projects overseas, most recently for the American Bar Association Rule of Law Initiative. Cynthia earned an LL.M. in Dispute Resolution from the University of Missouri,

and she holds a national leadership position in the field as the Chair of the AALS ADR Section.

Professor Michael Z. Green

Interim Director, Aggie Dispute Resolution Program.

Co-Chair, ABA Section of Dispute Resolution Employment Committee

Michael's background includes being the former manager of a Fortune 500 corporation and an attorney representing employees and employers in workplace disputes. Michael currently serves as an employment law mediator and labor arbitrator with appointments to the Federal Mediation Conciliation Services Labor Arbitration Panel, the American Arbitration Association National Labor Panel, and the Dallas Area Rapid Transit Trial Board. Michael's scholarship explores the legal implications of resolving workplace disputes while occasionally examining the intersection of race discrimination and dispute resolution.



Associate Professor Carol Pauli



Carol's background is in journalism, where she quickly saw that there are more than two sides to every story. At CBS News in New York, she won awards for radio documentaries that incorporated the voices and experiences of African-Americans and American Muslims. She studied facilitative mediation at the Benjamin N. Cardozo School of Law, and she has trained in transformative mediation at the Mediation Center of Dutchess County (NY). In her scholarship and in her teaching, her goal is to foster an environment of inclusion. She has proposed ways that ADR methods can help reporters frame news stories about public conflicts so as to decrease polarization and increase intercultural understanding. In her teaching, she uses exercises designed to bolster resilience in marginalized students for

whom law school may be an especially strange world. She serves on the law school Diversity Council.

Associate Professor Peter Reilly

After law school, Peter worked for seven years as attorney-advisor within the U.S. Commission on Civil Rights in Washington, D.C., investigating issues involving voting rights, university integration, and police misconduct. Peter then spent three years as a Hewlett Fellow in Conflict Resolution and Legal Problem-Solving at Georgetown University Law Center. Peter's scholarship sits at the crossroads of business law and dispute resolution. He is currently looking at how the Department of Justice uses the controversial ADR vehicles of deferred prosecution and non-prosecution agreements (DPAs and NPAs) to address allegations of corporate criminal misconduct under the Foreign Corrupt Practices Act (FCPA) and other federal statutes. Peter argues that DPAs and NPAs might not be the most fair, transparent, or just way to resolve the original allegations of wrongdoing.



ADR ADJUNCT FACULTY

Kay Elliott

Kay Elliott is a mediator, arbitrator, and mediation trainer. She teaches mediation and family mediation, and she coaches several ADR teams. Since 1990 her teams have won numerous regional and national championships, including the 2016 ABA Representation in Mediation national championship. Kay is co-editor of the State Bar of Texas Handbook on Alternative Dispute Resolution (3rd edition). Kay is a member of the Texas and National Academy of Distinguished Neutrals, a charter member of the Texas Mediation Trainers Round Table, and a former member of the State Bar of Texas ADR section council. In addition to her J.D. and LL.M. degrees, Kay has a master's degree in International Business.

Karen Roberts Washington

Karen Roberts Washington is a practicing attorney, mediator, and arbitrator with Thorpe, Hatcher & Washington in Dallas. She serves on dispute resolution panels for the American Arbitration Association, FINRA, and many courts. She is a Commissioner on the Uniform Law Commission, a member of the American Law Institute, and a member of the William "Mac" Taylor American Inn of Court. She earned her J.D. from the University of Texas School of Law and clerked for the 5th Court of Appeals at Dallas.

Jim Young

Jim Young is a practicing attorney, mediator, and arbitrator with experience in corporate, commercial, and transactional matters. He is a partner in the Dallas office of the law firm Culhane Meadows PLLC. Jim has spent approximately thirteen years total in private practice with various law firms, and approximately eighteen years total as in-house general counsel or senior corporate generalist for a number of insurance companies and one educational publishing company. Jim is director of the law school's Employment Mediation Clinic; he holds a B.A. in Managerial Studies and Political Science from Rice University, and a J.D. from the University of Houston College of Law.

Justin Zartman

Justin Zartman works for the Connecticut Education Association (CEA) negotiating teachers' contracts and representing teachers at arbitrations and state labor board hearings. Prior to that, Justin worked for the Fort Worth office of the National Labor Relations Board (NLRB). Justin has degrees in labor and employment relations and political science from Penn State, as well as a law degree from Texas Wesleyan School of Law.



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RESOLUTION

RANKED

1ST

IN TEXAS

18TH

IN THE NATION

ADR

Conferences Sponsored or Co-sponsored
by A&M in 2015 and 2016

9TH ANNUAL AALS ADR

WORKS-IN-PROGRESS CONFERENCE

In October 2015, Texas A&M Law hosted approximately twenty Scholars from throughout the country (and world as one flew in from Israel), who spent two days in a supportive and collegial environment, presenting ADR papers at various stages of completion. Texas A&M offered travel stipends to junior faculty who had not previously attended the conference, starting a tradition that is being continued by the 2016 host of the conference, Marquette University.

12TH ANNUAL CIVIL LAW COLLABORATE LAW CONFERENCE

In September 2016, Texas A&M Law will be co-sponsoring this yearly conference, which attracts collaborative law scholars and practitioners, both nationally and internationally, for three days of thoughtful discussion and useful trainings. For further information on this conference, please go to http://www.collaborativelaw.us/articles/training/12th_Annual_Civil_CL_Conference.pdf

Scholarship

Creating and disseminating new knowledge in the field lies at the heart of our Aggie Dispute Resolution Program. Following is a selective listing of works by Texas A&M Law School ADR faculty:

- Cynthia Alkon, *Hard Bargaining in Plea Bargaining: When do Prosecutors Cross the Line?* (Forthcoming, NEVADA LAW REVIEW 2017).
- Cynthia Alkon, *Plea Bargaining: An Example of Negotiating with Constraints*, Book Chapter, NEGOTIATOR'S DESK REFERENCE (Eds. Andrea Schneider & Christopher Honeyman, Forthcoming, 2016).
- Cynthia Alkon, *Plea Bargain Negotiations: Defining Competence Beyond Lafler and Frye*, 53 AMERICAN CRIMINAL LAW REVIEW 377 (Spring 2016).
- Cynthia Alkon, *An Overlooked Key to Reversing Mass Incarceration: Reforming the Law to Reduce Prosecutorial Power in Plea Bargaining*, 15 MARYLAND LAW JOURNAL OF RACE, RELIGION, GENDER & CLASS, 191 (Fall 2015).
- Cynthia Alkon, *What's Law Got to Do With It? Plea Bargaining Reform after Lafler and Frye*, 7 YEARBOOK ON ARBITRATION AND MEDIATION 1 (2015).
- Cynthia Alkon, *The U.S. Supreme Court's Failure to Fix Plea Bargaining: The Impact of Lafler and Frye*, 41 HASTINGS CONSTITUTIONAL LAW QUARTERLY 561 (2014).
- Cynthia Alkon, *Making a Deal in Criminal Law*, 10 OHIO STATE JOURNAL OF CRIMINAL LAW 643 (2013).
- Cynthia Alkon, *The Flawed U.S. Approach to Rule of Law Development*, 117 PENNSYLVANIA STATE LAW REVIEW 797 (2013).
- Cynthia Alkon, *Lost in Translation: Can Exporting ADR Harm Rule of Law Development?* 2011 JOURNAL OF DISPUTE RESOLUTION 165 (symposium issue).
- Cynthia Alkon, *Plea Bargaining as a Legal Transplant: A Good Idea for Troubled Criminal Justice Systems?* 19 TRANSNATIONAL LAW & CONTEMPORARY PROBLEMS 355 (2010).
- Cynthia Alkon, *Reconciliation of Criminal Cases in Central Asia: A Sign of Restorative Justice, Reform, or Cause for Concern?* 8 PEPPERDINE DISPUTE RESOLUTION LAW JOURNAL 41 (2007).
- Cynthia Alkon, *Women Labor Arbitrators: Women Members of the National Academy of Arbitrators Speak About the Barriers of Entry into the Field*, 6 APPALACHIAN JOURNAL OF LAW 195 (2007).
- Cynthia Alkon, *The Cookie Cutter Syndrome: Legal Reform Assistance Under Post-Communist Democratization Programs*, 2002 JOURNAL OF DISPUTE RESOLUTION 327.
- Kay Elkins-Elliott & Frank W. Elliott, *Symposium: Problem Solving Process: Peacemakers and the Law: Settlement Advocacy*, 11 TEXAS WESLEYAN LAW REVIEW 7 (2004).
- Michael Z. Green, *Negotiating While Black*, Book Chapter, NEGOTIATOR'S DESK REFERENCE (Eds. Andrea Schneider & Christopher Honeyman, Forthcoming, 2016).
- Michael Z. Green, *Retaliatory Employment Arbitration*, 35 BERKELEY JOURNAL OF EMPLOYMENT & LABOR LAW 201 (2014).
- Michael Z. Green, *A Post-Pyett Collective Bargaining Agreement to Arbitrate Statutory Discrimination Claims: What is it Good For? — Could It Be Absolutely Something or Really Nothing?* CHAPTER 12, THE CHALLENGE FOR COLLECTIVE BARGAINING: PROCEEDINGS OF THE NEW YORK UNIVERSITY 65TH ANNUAL CONFERENCE ON LABOR (Ed. Michael Z. Green 2013).
- Michael Z. Green, *Reading Ricci and Pyett to Deliver Racial Justice Through Union Arbitration*, 87 INDIANA LAW JOURNAL 367 (2012).
- Michael Z. Green, *Measures to Encourage and Reward Post-Dispute Agreements to Arbitrate*, 8 NEVADA LAW JOURNAL 58 (2007).
- Michael Z. Green, *Ruminations About the EEOC's Policy Regarding Arbitration*, 11 EMPLOYMENT RIGHTS AND EMPLOYEE POLICY JOURNAL 58 (2007).

- Michael Z. Green, *Tackling Employment Discrimination With ADR: Does Mediation Offer a Shield for the Haves or Real Opportunity for the Have-Nots?*, 26 BERKELEY JOURNAL OF EMPLOYMENT & LABOR LAW 321 (2005).
- Michael Z. Green, *Addressing Race Discrimination Under Title VII After Forty Years: The Promise of ADR as Interest Convergence*, 48 HOWARD UNIVERSITY LAW JOURNAL 937 (2005).
- Michael Z. Green, *An Essay Challenging the Racially Biased Selection of Arbitrators for Employment Discrimination Claims*, 4 JOURNAL OF AMERICAN ARBITRATION 1 (2005).
- Michael Z. Green, *Proposing a New Paradigm for EEOC Enforcement After Thirty Five Years: Outsourcing Charge Processing by Mandatory Mediation*, 105 PENNSYLVANIA STATE DICKINSON LAW REVIEW 305 (2001).
- Michael Z. Green, *Debunking the Myth of Employer Advantage from Using Mandatory Arbitration for Employment Discrimination*, 31 RUTGERS LAW JOURNAL 399 (2000).
- Carol Pauli, *A Whole Other Story: Applying Narrative Mediation to the Immigration Beat*, CARDOZO JOURNAL OF CONFLICT RESOLUTION (Forthcoming, 2016).
- Carol Pauli, *Transforming News: How Mediation Principles Can Depolarize Public Talk*, 15 PEPPERDINE DISPUTE RESOLUTION LAW JOURNAL 85 (2015).
- Carol Pauli, *News Media as Mediators*, 8 CARDOZO JOURNAL OF CONFLICT RESOLUTION 717 (2007).
- Peter Reilly, *Justice Deferred is Justice Denied: We Must End Our Failed Experiment in Deferring Corporate Criminal Prosecutions*, 2015 BRIGHAM YOUNG UNIVERSITY LAW REVIEW 307 (2015).
- Peter Reilly, *Incentivizing Corporate America to Eradicate Transnational Bribery Worldwide: Federal Transparency and Voluntary Disclosure under the Foreign Corrupt Practices Act*, 67 FLORIDA LAW REVIEW 1683 (2015).
- Peter Reilly, *Negotiating Bribery: Toward Increased Transparency, Consistency, and Fairness in Pre-Trial Bargaining Under the Foreign Corrupt Practices Act*, 10 HASTINGS BUSINESS LAW JOURNAL 347 (2014).
- Peter Reilly, *Resistance is Not Futile: Harnessing the Power of Counter-Offensive Tactics in Legal Persuasion*, 64 HASTINGS LAW JOURNAL 1171 (2013).
- Peter Reilly et al., *Attorneys and Negotiation Ethics: A Material Misunderstanding?* 29 NEGOTIATION JOURNAL 265 (2013).
- Peter Reilly, *Mindfulness, Emotions, and Mental Models: Theory That Leads to More Effective Dispute Resolution*, 10 NEVADA LAW JOURNAL 433 (2010).
- Peter Reilly, *Was Machiavelli Right? Lying in Negotiation and the Art of Defensive Self-Help*, 24 OHIO STATE JOURNAL ON DISPUTE RESOLUTION 481 (2009).

Other A&M law faculty have also made scholarly contributions to the ADR discipline:

- Susan Ayres, *Hélène Cixous's "The Perjured City": Nonprosecution Alternatives to Collective Violence*, 9 NEW YORK CITY LAW REVIEW 1 (2005).
- Mark Edwin Burge, *Without Precedent: Legal Analysis in the Age of Non-Judicial Dispute Resolution*, 15 CARDOZO JOURNAL OF CONFLICT RESOLUTION 143 (2013).
- Susan Saab Fortney, *Symposium: Collaborative Divorce: What Louis Brandeis Might Say About the Promise and Problems?* (TOURO LAW REVIEW, forthcoming 2016).
- Angela D. Morrison, *Misconstruing Notice in EEOC Administrative Processing & Conciliation*, 14 NEVADA LAW JOURNAL 785 (2014).
- Lynne H. Rambo, *Impeaching Lying Parties with their Statements During Negotiations: Demysticizing the Public Policy Rationale behind Evidence Rule 408 and the Mediation-Privilege Statutes*, 75 WASHINGTON LAW REVIEW 1037 (2000).
- Peter Yu, *Toward a Nonzero-Sum Approach to Resolving Global Intellectual Property Disputes: What We Can Learn from Mediators, Business Strategists, and International Relations Theorists*, 70 CINCINNATI LAW REVIEW 569 (2002).

Courses & Clinics

Unique ADR Offerings

In addition to offering the typical array of mediation, negotiation, arbitration, and “survey” courses and clinics offered in many law schools, Texas A&M Law has developed several unique courses, including a



seminar on ADR in the Workplace (in which students act as advocates for parties in a labor arbitration and mediation and an employment arbitration and mediation), The Business Negotiator, Advanced Issues in Criminal Justice Seminar (in which students learn the theory and practice of plea bargaining, as well as other dispute resolution processes in criminal practice), an intensive Labor Negotiations Skills Workshop, and the Employment Mediation Clinic (in which students co-mediate federal and local government workplace disputes). The Aggie Dispute Resolution program also offers a concentration in Dispute Resolution, awarded to J.D. students who complete coursework, writing, and skills requirements.

<http://law.tamu.edu/prospective/academics/>

Teams

National Award Winners

We are grateful for the contributions of a talented and dedicated group of dispute resolution professionals within the Fort Worth-Dallas community who volunteer their time to help prepare our student teams for their various ADR competitions.

IN 2015-2016

A&M students were the Mediation Champions of the FINRA Securities Dispute Resolution Triathlon, as well as National Semi-Finalist in the ABA Negotiation Competition.

IN 2015-2016

A&M students were the National Champions of the ABA Representation in Mediation Competition. Pictured to the right are competition champions Lynne Nash and Justin Davis.



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